

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JALAL YEHA-ALI SAEED,

Petitioner,

Case No. 1:06-CV-713

v.

HON. GORDON J. QUIST

SHIRLEE A. HARRY,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court has before it the Petitioner's objections to the Magistrate Judge's Report and Recommendation issued on November 20, 2006. In his report and recommendation, the magistrate judge concluded that the Petitioner's petition for habeas corpus failed to state a meritorious federal claim and should be dismissed. The Petitioner raises no new arguments but merely reasserts his claim that he was denied his Sixth Amendment right to a jury trial under *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531 (2004).

After conducting a *de novo* review of the report and recommendation, the Court concludes that the report and recommendation should be adopted by the Court.

The Petitioner attempts to establish a factual similarity between the sentencing in his case and that in *Blakely*, but overlooks the difference between Michigan's indeterminate sentencing scheme and Washington's determinate sentencing scheme as applied in *Blakely*. "Indeterminate sentencing schemes, unlike determinate sentencing schemes, do not infringe on the province of the jury." *George v. Burt*, No. 2:04-cv-74968, 2006 WL 156396, at *5 (E.D. Mich. Jan. 20, 2006) (citing *Blakely*, 542 U.S. at 304-05, 308-09, 124 S. Ct. at 2538, 2540-41). Because the Petitioner was

sentenced under Michigan's indeterminate sentencing scheme, *Blakely* has no application in this case. *See Walton v. McKee*, No. 2:04-cv-73695, 2005 WL 1343060, at *3 (E.D. Mich. June 1, 2005).

The Petitioner raises no other objections to the magistrate judge's report and recommendation. Consequently, the Petitioner fails to state a meritorious federal claim and the magistrate judge did not err in recommending that the petition be dismissed with prejudice. Therefore,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation issued on November 20, 2006 (docket no. 2), is **APPROVED AND ADOPTED** as the Opinion of this Court.

IT IS FURTHER ORDERED that the Petitioner's petition for writ of habeas corpus is **DISMISSED WITH PREJUDICE**.

This case is **concluded**.

Dated: December 18, 2006

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE